

**ORIGINAL**

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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAR 10 2006

at 3 o'clock and 36 min. PM  
SUE BEITIA, CLERK

Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT****FOR THE DISTRICT OF HAWAII**

ANTHONY NESBIT,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC  
SAFETY, STATE OF HAWAII, et. al.

Defendants.

CIVIL NO. 03-00455 SOM-KSC  
(Consolidated)

**DEFENDANTS MEMORANDUM IN  
RESPONSE TO PLAINTIFFS'  
MOTION FOR DISCOVERY  
SANCTIONS, AS ORDERED  
BY ORDER OF FEBRUARY 8, 2006;  
APPENDIX; CERTIFICATE OF  
SERVICE**

WILLIAM KOTIS,

Plaintiff,

vs.

STATE OF HAWAII DEPT. OF  
PUBLIC SAFETY, et. al.

Defendants.

CIVIL NO. 04-00167 SOM-KSC  
(Consolidated)

**DEFENDANTS MEMORANDUM IN RESPONSE TO PLAINTIFFS'  
MOTION FOR DISCOVERY SANCTIONS, AS ORDERED  
BY ORDER OF FEBRUARY 8, 2006**

On February 7, 2006, Plaintiffs filed their Motion for Discovery Sanctions related to outstanding Request for Production of Documents, as modified and limited by this Court's Order of December 7, 2005. Defendants acknowledge that their responses to these discovery requests have been slow, due in large part to the administrative burden upon the personnel at the Halawa Correctional Facility, tasked with obtaining the documents and facilitating the responses.

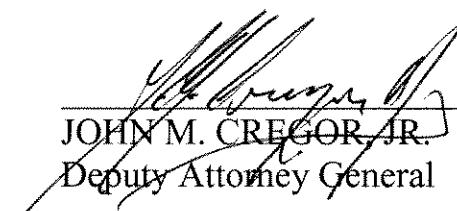
Defendants have now responded to Plaintiffs' Request for Production of Documents, to the best of their ability, although, it can be seen that the number of responsive documents is small, as explained by the Declaration of Linda Rivera. Plaintiffs had also requested that their Interrogatories, as limited and modified by this Court's December 7, 2005 Order, be answered separately by each named individual Defendant. Some of the named defendants are no longer in the employ of the State of Hawaii, Department of Public Safety and some had little if any connection to the issues raised in this case. As of the filing of this response, Answers prepared by Linda Lortz and Cinda Sandin, have been transmitted to the Plaintiffs and as more answers are finalized by the remaining defendants, they too will be transmitted to Plaintiffs.

Plaintiffs' request for the imposition of sanctions is based primarily upon their perception of prejudice as they claim to need the information to file their response to pending motions by the February 16, deadline. It appears that shortly after Plaintiffs prepared their motion, and unknown to them, Judge Mollway did, on February 9, 2006 reschedule the hearing on Defendants' Motion for Summary Judgment to April 6, 2006, obviating at least in part, prejudice to the Plaintiffs.

Defendants do apologize to the court for the length of time that it has taken to respond to Plaintiff's Discovery and therefore have no objections to a further postponement of the hearing on Defendants' Motion for Summary Judgment in order to give Plaintiffs adequate time to formulate their responses.

Further, as ordered by this Court, copies of the two Declarations of Monica Lortz are attached as an appendix.

DATED: Honolulu, Hawaii, March 10, 2006.



JOHN M. GREGOR, JR.  
Deputy Attorney General

Attorney for Defendants